

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Top Tobacco, L.P., and Republic Tobacco, L.P.,)	
)	
Plaintiffs,)	Civil Action No. 1:15-cv-00437
)	
v.)	
)	Judge John W. Darrah
CompuZone, Inc., d/b/a VapingZone,)	
)	
Defendant.)	
)	
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CompuZone, Inc. d/b/a VapingZone,)	
)	
Plaintiff,)	Civil Action No. 15-cv-03965
)	
v.)	Judge John W. Darrah
)	
Top Tobacco, L.P.,)	
)	
Defendant.)	

AGREED MOTION FOR ENTRY OF CONSENT JUDGMENT

Plaintiffs Top Tobacco L.P. (“Top Tobacco”) and Republic Tobacco L.P. (“Republic Tobacco”) and Defendant CompuZone, Inc. d/b/a VapingZone (“VapingZone”) jointly move this Court for the entry of a Consent Judgment. In support of this motion, Plaintiffs state as follows:

1. On January 15, 2015, Top Tobacco and Republic Tobacco filed a Complaint in the United States District Court for the Northern District of Illinois, Civil Action No. 1:15-cv-00437 (the “Top Tobacco Lawsuit”), asserting that Defendant’s use of the term REAL in connection with electronic cigarette liquids infringed its rights in the trademark REAL, which Top Tobacco has registered in connection with tobacco. The Complaint asserts claims for

trademark infringement and false designation under the Lanham Act, 15 U.S.C. § 1051 *et seq.*, as well as related state law and common law claims.

2. VapingZone denies all allegations of the Top Tobacco Lawsuit, and initiated its own civil action against Top Tobacco in the United States District Court for the District of South Carolina seeking a declaratory judgment that Top Tobacco's REAL Mark is invalid and not infringed, the allegations of which Top Tobacco has denied, and which has been transferred to the Northern District of Illinois (Civil Action No. 15-cv-03965) and consolidated in this court with the aforesaid action filed by Top Tobacco and Republic Tobacco.

3. After referral by this court to Magistrate Judge Martin for a settlement conference, the parties have agreed to settle this matter by, among other things, the entry of the Consent Judgment attached hereto as Exhibit 1.

WHEREFORE, the parties request the entry of Consent Judgment.

Dated: October 19, 2015

<u>/s/ Antony J. McShane</u> One of the Attorneys for Plaintiffs, Top Tobacco L.P. and Republic Tobacco, L.P.	<u>/s/ Craig S. Fochler</u> One of the Attorneys for Defendant, CompuZone, Inc. d/b/a VapingZone
Antony J. McShane Andrea S. Fuelleman Collette A. Brown Neal, Gerber & Eisenberg LLP Two North LaSalle Street Suite 1700 Chicago, IL 60602 Telephone: (312) 269-8000 Facsimile: (312) 269-1747	Craig S. Fochler Richard S. Montei Foley & Lardner 321 North Clark Street Suite 2800 Chicago, IL 60654 Telephone: (312) 832-4500 Facsimile: (312) 832-4700

CERTIFICATE OF SERVICE

I, Antony J. McShane, an attorney, state that I served a copy of the foregoing *Agreed Motion for Entry of Consent Judgment* upon:

Craig S. Fochler
Richard S. Montei
Foley & Lardner
321 North Clark Street
Suite 2800
Chicago, IL 60654

by the ECF system.

Dated: October 19, 2015

/s/ Antony J. McShane
Antony J. McShane

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